



EARL R. POMEROY  
COMMISSIONER OF INSURANCE  
STATE OF NORTH DAKOTA  
STATE CAPITOL  
BISMARCK, NORTH DAKOTA 58505  
701 - 224 - 2440

BULLETIN 86-3

TO: ALL COMPANIES WRITING NURSING HOME POLICIES IN N.D.  
FROM: Earl R. Pomeroy, Commissioner of Insurance *ERP*  
DATE: March 10, 1986  
SUBJECT: Nursing Home Coverage

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The purpose of this Bulletin is to supplement and clarify the Department's position on House Bill 1059 which was passed in 1981, effective July 1, 1981.

Two sections of the North Dakota Century Code were affected by this legislation: Sections 26.1-36-37 and 26.1-04-03(9)(1).

1. Section 26.1-36-37 provides that any policy affording nursing home coverage must be guaranteed renewable for life.

The Department's position is that Section 26.1-36-37 refers to nursing home policies, nursing home coverage provided in a specific rider, and Medicare supplement policies providing nursing home coverage. Further, the section applies to major medical policies or hospital indemnity policies providing nursing home benefits. The section applies to contracts issued in North Dakota.

Section 26.1-36-37 applies to all policies issued after July 1, 1981.

2. Section 26.1-04-03(9)(1) provides that it is an unfair claims settlement practice to refuse to pay a claim under a policy providing coverage for confinement to a nursing home when a person covered by such a policy was confined to a hospital for three days or more and the patient's physician ordered the confinement for care other than custodial care. Thus, Section 26.1-04-03(9)(1) defines skilled care as care "other than custodial."

The Department's position is that all policies currently in force will be scrutinized for possible violation of the unfair claim settlement practices provision, Section 26.1-04-03(9)(1), N.D.C.C.

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Finally, a few companies which write nursing home coverage condition payment upon Medicare approval of the service or the facility. That type of condition is contrary to the provisions of the North Dakota Century Code. Effective immediately, no policy filed with this Department will be approved if it contains a condition similar to that discussed above. Those policies which are currently in force shall conform to the laws of the state pursuant to Sections 26.1-36-04(2)(f) and 26.1-36-39, N.D.C.C. Therefore, any policy provision which conditions payment on Medicare approval is ineffective and will be construed accordingly. Claims must be processed in conformance with the current provisions of the North Dakota Century Code.